Message

From: Huetteman, Tom [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D4F706816D794558BD3643F83D1AD9CB-THUETTEM]
Sent: 3/20/2015 1:35:23 AM
To: Barhite, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a3cb5586315a4bdabffafaebae811991-SBARHITE]
Subject: Fwd: Malibu

Tom Huetteman, Assistant Director
Land Division, EPA Region 9
415-972-3751

Begin forwarded message:

> **From:** "Jen@mu" <jen@malibuunites.com>
> **Date:** March 19, 2015 at 6:23:27 PM PDT
> **To:** "Armann, Steve" <Armann.Steve@epa.gov>
> **Cc:** "Huetteman, Tom" <Huetteman.Tom@epa.gov>, "Scott, Jeff" <Scott.Jeff@epa.gov>
> **Subject: Re: Malibu**
>
> Steve:
>
> This is a ridiculous excuse to be made 6 months later.
>
> There is no reason not to do this based on the lengthy evidence of PCB contamination that is not considered in the standard equation.
>
> Pcbs are regulated under TSCA law, not based on risk. That is the whole point of regulation and law. Your job is to enforce the law and not create guidance that conflicts with the law. Guidance is not law.
>
> If you are interested in rule making or taking PCBs out of TSCA, then talk to congress and gather enough evidence to persuade them to repeal the law.
>
> Until then, once again we are demanding that you enforce the law. There is ample evidence that there is widespread Pcb contamination of an unauthorized use of caulking throughout 10 buildings. The burden of proof that there are no violations of Tsca is on the building owner and it's the EPA's job to make sure they are not .
>
> Why is Carmem Santos no longer on schools sites? Where is the expert on TSCA enforcement? Why did you push the for no removal of the soil with high levels of PCBs and attempt to play with statistics to justify you? I could go on with your poor choices...
>
> Too bad California doesn't have R1 EPA taking care of us. You all could learn a lot from their enforcement experience.
>
> Jennifer deNicola
> America Unites for kids

www.AmericaUnites.com
Malibu Unites
310-436-6000

"Children's right to a great education includes the freedom to learn in an environment that does not jeopardize their health."

On Mar 19, 2015, at 4:03 PM, Armann, Steve <Armann.Steve@epa.gov> wrote:

Jennifer,

Thank you for your inquiry. We apologize if there was a misunderstanding about developing site-specific public health levels (PHLs) for air. Our policy is that such a request needs to come from the applicant for a TSCA approval. Sometime last year we discussed this issue with the District's consultant. The District is aware that they could request that we develop site specific values, but to date they have not made such a request.

Given the low air concentration data results from over 100 air samples from MHS and JCES, we do not believe development of Malibu specific air PHLs would necessarily make a difference.

Sincerely,

Steven S. Armann, Manager
Corrective Action Office (LND-4-1)
USEPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Phone: 415-972-3352
Fax: 415-947-3533
Email: armann.steve@epa.gov

From: Jennifer deNicola [mailto:jen@malibuunites.com]
Sent: Tuesday, March 17, 2015 9:02 PM
To: Armann, Steve
Cc: Huetteman, Tom; Scott, Jeff
Subject: Re: Malibu

(Jeff thank you for following up)

Dear Steve,

Yes, this is the email I am referring to. Over the last year I have repeatedly asked the EPA to do a Malibu specific calculation taking into account the higher levels of PCBs in the dust, air, and soil at MHS and properly weighing these exposure pathways that were not done in PS199's calculation because it was not an issue for them. PS199 is not comparable to MHS. They are a box-like school, where they can control their environment better and do not have a dust or soil issue that affects their exposure. As Region 2 has said, NY custodians do a great job keeping the school clean from dust.

"Building owners and school administrators wishing to make similar calculations based on their own specific circumstances should contact their regional PCB coordinator."

EPA website regarding air exposure thresholds clearly states that: "Assuming a background scenario of **no significant PCB contamination in building materials** and average exposure from other sources, these concentrations should keep total exposure below the reference dose of 20 ng PCB/kg-day."

We can confidently state that there is significant PCB contamination in building materials (370,000ppm) and that exposure from other sources is more than average (soil, dust). Spending more time in schools would have the opposite effect and would decrease the values (we have High School kids that spend 10 hours a day in classrooms and teachers who also spend this much time). Having other contamination (we have lead based paint, asbestos, and soil documented contamination) will reduce the allowable amount in the air. In addition we can argue that living in a costal town, students and teachers are more likely to receive higher doses of PCBs in their diet. As we know, high fish ingestion provides higher level of PCB exposure and this means that an allowance for any other exposure (ie: school) must be reduced.

From EPA's site: http://www.epa.gov/pcbsincaulk/pdf/maxconcentrations.pdf

> "In calculating these indoor air levels, EPA considered potential sources of PCB exposure from both school and non-school environments. Non-school sources of PCB exposure include both indoor and outdoor air, indoor dust, outside soils, and diet. **Although the concentrations of PCBs in environmental media are not well characterized,** mean or median values from the scientific literature, and average contact rates, were used to estimate exposure. For non-school sources, the largest single source of PCB exposure for most individuals in uncontaminated buildings is diet, which contributes roughly 50 to 60% to total PCB exposure. **Typical indoor and outdoor air contains a small amount of PCBs**, and **inhalation exposure accounts for another 25 to 35%** of total exposure. Together, these non-school sources of PCBs generally result in exposures that are significantly below the reference dose. **EPA assumed that the PCB concentrations in dusts and soils in and around schools were the same as in average homes or other buildings without elevated PCBs**. EPA also assumed an 8-hour school day for adults and children less than 3 years old, and a 6.5 hour school for all other children. EPA also assumed children would be in school 180 days per year. Using estimates of exposure for sources except indoor air in schools, EPA calculated the school indoor air PCB concentration that would result in a total exposure equal to the reference dose.
>
> **EPA recommends that the concentrations of PCBs in indoor air be kept as low as is reasonably achievable** and that total PCB exposure be kept below the reference dose level. The concentration values provided in the table below are based **upon average situations**. "

This document clearly states that EPA assumed PCB concentrations in dust and soil in schools is the same as homes (which EPA claims does not have PCBs) or other buildings WITHOUT ELEVATED PCBs, yet MHS and JC clearly have elevated PCBs. Our school day is longer, the length of time kids go to these schools is 6 years at each and lastly, you must take into consideration that "concentrations of PCBs in the environmental media are not well characterized" meaning there are many assumptions going into this calculation. EPA RSL's say

that the point of departure is 4.3 ng in the air for a 1 in 1 million risk. That should be our goal! Lastly, PCBs are regulated by law, not by risk. The law has determined that PCBs are a danger to human health and any use is unauthorized and removal is required at 50ppm and PCB remediation waste remediated to 1ppm. The law is the law and guidance is guidance. It would be nice if the agency (EPA) tasked by law to enforce the TSCA law did so. It is reasonable after being presented evidence of widespread contamination at extraordinarily high levels, that the EPA would use common sense in evaluating the nature and extent of the PCB contamination at our schools. If PCBs over 50ppm are in use in our buildings are in violation of Federal law and ignoring it or pretending that you don't presume it to be there does not relieve you from your obligation to enforce unauthorized use. And guidance doesn't trump law.

Please let me know by Thursday, March 19th, at 5pm when we can expect to receive this calculation along with justification of all values used so that we can verify.

We will not give up on protecting our kids and teachers. All children, in all schools, deserve an education that does not jeopardize their health, which means no risk.

Thank you,
Jennifer deNicola
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"Children's right to education excellence includes the freedom to learn in an environment that does not jeopardize their health"